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10	Attorneys for Plaintiff MARVELL SEMICONDUCTOR, INC.		
11	UNITED STATES DISTRICT COURT		
12	NORTHERN DISTRICT OF CALIFORNIA		
13	SAN FRANCISCO DIVISION		
14	MARVELL SEMICONDUCTOR, INC.,	CASE NO. C07-05626 SI	
15	Plaintiff,	MARVELL CEMICONDUCTOR INC. 10	
16	v.	MARVELL SEMICONDUCTOR, INC.'S ADMINISTRATIVE MOTION FOR LEAVE TO FILE SURREPLY,	
17 18	WI-LAN, INC., Defendant.	SUPPORTING DECLARATION OF LINDA J. THAYER,	
19		[PROPOSED] ORDER	
20		[TROTOSED] ORDER	
21			
22	Pursuant to Civil Local Rule 7-11, Marve	ell Semiconductor, Inc. ("Marvell") respectfully	
23	requests leave of Court to file a surreply in response to Wi-LAN, Inc.'s Reply in Support of Its		
24	Motion to Dismiss Marvell Semiconductor, Inc.'s Suit for Declaratory Relief. The surreply that		
25	Marvell requests leave to file is submitted herewith as Exhibit A.		
26	There is good cause for filing the proposed surreply. Wi-LAN's Reply was served on June 6,		
27	2008. On that same day, Wi-LAN sent Marvell a new covenant not to sue ("the June 6 th Covenant")		
28	and filed the June 6 th Covenant as Exhibit A to the Reply. In its Reply, Wi-LAN's makes arguments		
		1 ADMIN. MOT. TO FILE SURREPLY	

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in support of its Motion to Dismiss with reference to the June 6th Covenant. The June 6th Covenant is new information that Marvell did not have on May 30, 2008, when it filed its Opposition.

Marvell requests leave to file a surreply to address facts and misleading arguments relating to the new June 6th Covenant not to sue. ¹ For example, Wi-LAN argues that, with the June 6th Covenant, there is no remaining controversy between the parties. This is not true, and Marvell seeks leave to file a surreply to respond to this argument.

Marvell's attorneys provided Wi-LAN's attorneys with a copy of the proposed surreply (Exhibit A) and asked that Wi-LAN stipulate to its filing, but Wi-LAN refused to stipulate.

Marvell respectfully requests that, if this Motion is granted by the Court, the Court direct the Clerk to enter into the record the surreply in Exhibit A.

SUPPORTING DECLARATION OF LINDA J. THAYER

I, LINDA J. THAYER, declare as follows:

- I am an attorney licensed to practice before this Court and all courts of the State of California, and am a member of Finnegan, Henderson, Farabow, Garrett & Dunner L.L.P., counsel for Marvell in the above-entitled action.
- 2. The matters stated herein are based upon my personal knowledge, and if called as a witness, would testify as to the following statements.
 - 3. Exhibit A is a copy of the surreply that Marvell requests leave to file.
- 4. On June 6, 2008, shortly after receiving Wi-LAN's Reply and new covenant, I contacted Wi-LAN's counsel and requested that Wi-LAN stipulate to Marvell's filing of a surreply.
- 5. On June 9, 2008, Wi-LAN's counsel responded that they needed to review a copy of the surreply that Marvell intended to file before Wi-LAN would stipulate.
- 6. Early today, I emailed Wi-LAN's attorneys a copy of the surreply, filed herewith as Exhibit A, and requested that Wi-LAN stipulate to its filing.

¹ By addressing only this issue in the surreply, Marvell does not suggest that the Reply contains no other matters requiring response. Marvell believes it can address those issues at the hearing.

1	7. This afternoon, I received an email from John B. Campbell of McKool Smith, P.C.		
2	stating that Wi-LAN would not stipulate to Marvell's filing of a surreply.		
3	8. The representations made above in this Administrative Motion and declaration are		
4	true and correct to the best of my knowledge and belief.		
5	I declare under penalty of perjury under the laws of the United States that the foregoing is		
6	true and correct and this declaration was executed this 13 th day of June, 2008, at Palo Alto,		
7	California.		
8	/s/		
9	Linda J. Thayer		
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20	[PROPOSED] ORDER		
21	Upon good cause shown, IT IS HEREBY ORDERED that the Surreply attached as Exhibit		
22	A be filed in this case by the Clerk.		
23	IT IS SO ORDERED.		
24			
25	Dated:, 2008		
26	Susan Illston United States District Judge		
27			
28			
	3 ADMIN MOT TO FILE SURREP	τV	

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